

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

JAN 26 2016

U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES OF AMERICA,

)

Plaintiff,

)

v.

)

2015 NISSAN GT-R COUPE,

)

VIN: JN1AR5EF0FM280947,

)

ONE CZ-75 SP-01, 9MM PISTOL,

)

SERIAL NO. B427577, and

)

ONE CZ-75 SP-01, .40 CALIBER TACTICAL

)

PISTOL, SERIAL NO. B697071,

)

Defendants.

)

4 :No. 16 MC 00046 NAB R

MOTION TO EXTEND TIME TO FILE COMPLAINT FOR FORFEITURE

Comes now the United States of America, by and through its attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Stephen Casey, Assistant United States Attorney for said District, and respectfully moves this Court to extend the time in which the United States is required to file a verified complaint for forfeiture and in support of its Motion states as follows:

1. On August 26, 2015, the United States Postal Inspection Service seized the following property from Beau Brinkley:
 - a) One CZ-75 SP01, 9mm Pistol, Serial No. B427577, and
 - b) One CZ-75 SP-01, .40 Caliber Tactical Pistol, Serial No. B697071.
2. On September 15, 2015, the United States Postal Inspection Service seized a 2015 Nissan GT-R Coupe, VIN: JN1AR5EF0FM280947 from Beau Brinkley.

3. All of the written notice of intent to forfeit required by Title 18, United States Code, Section 983(a)(3)(A) to be sent by the United States Postal Inspection Service to interested parties has been sent.

4. The time has expired for any person to file an administrative claim to the property under Title 18, United States Code, Section 983(a)(2)(A)-(E).

5. The only person to file an administrative claim to any portion of the defendant property with the United States Postal Inspection Service was Beau Brinkley. Mr. Brinkley filed a claim for the above property with the United States Postal Inspection Service on November 5, 2015.

6. Title 18, United States Code, Section 983(a)(3)(A) provides as follows:

Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed *may extend the period for filing a complaint for good cause shown* or upon agreement of the parties.

7. Title 18, United States Code, Section 983(a)(3)(B) also provides that the United States may maintain possession of the property by filing criminal charges within the relevant time frame.

8. Accordingly, absent an order extending its time, the United States must either file a civil complaint for forfeiture of the above-captioned property or file criminal charges on or about February 3, 2016.

9. The United States has an ongoing criminal investigation regarding the conduct giving rise to the forfeiture of the property. If a civil complaint is filed, any discovery in a civil

case would impede the Government's ability to conduct its ongoing criminal investigation and would also create a burden on the claimant's right against self-incrimination. Should the property be returned to the claimant there would be no assurance that the property would be available as evidence in any subsequent court proceedings.

10. The requested extension is in the interest of justice insofar as it avoids the need for duplicative actions and thereby conserves judicial and other governmental resources.

11. A proposed order is included herewith for the Court's consideration.

WHEREFORE, for the foregoing good cause, the Government respectfully requests that the Court extend the period in which the United States is required to file a Complaint against the property and/or to return criminal charges until May 3, 2016.

Dated: January 26, 2016

Respectfully submitted,

RICHARD G. CALLAHAN
United States Attorney

/s/ Stephen Casey
STEPHEN CASEY, #58879MO
Assistant United States Attorney
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St. Louis, Missouri 63102
314-539-2200

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2016, a copy of the foregoing was sent via first-class mail, postage prepaid and addressed to the following:

Beau Brinkley
1238 Rankin Rd.
Festus, MO 63028

Joel Schwartz, Esq.
Attorney for Claimant
120 South Central Ave.
Suite 130
St. Louis, MO 63105

/s/ Stephen Casey
STEPHEN CASEY, #58879MO
Assistant United States Attorney